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GRAFT AND GRAFTING: WHAT ARE THE REMEDIES?

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For years it has been the fashion to hold the politician responsible for everything that has gone wrong in the body politic: for corruption, inefficiency, indirection, indifference. One and all have laid the blame at his door. While he deserves a share, there are others who are equally blameworthy.

Then, again, it has been the fashion in many quarters to lay our political shortcomings on the shoulders of the ignorant foreign vote. Boston's delinquencies and New York's were due to the preponderance of the Irish vote; Milwaukee's conservatism (although that has gone a-shimmering with the advent of the Socialists) and Pennsylvania's were due to the preponderance of the German vote; and so on through the list.

It is not possible in a phrase, or an article even, to analyze the blame for our political ills. George William Curtis' diagnosis perhaps comes nearest: "It is not a government mastered by ignorance; it is a government betrayed by intelligence; it is not the victory of the slums; it is the surrender of the schools; it is not that bad men are politically shrewd; it is that good men are political infidels and cowards." Or, as another had put it, it is "the bad citizenship of the good citizen that lies at the bottom of much of our present troubles, and especially in this matter of graft about which we hear so much these days."

It is easy to assume that the politician is responsible for graft and then "let it go at that," but will the facts sustain this assumption?

Gentlemen, the business men of this country have debased the meaning of that good word "commercialism." It is they alone who are responsible for the sinister significance that now attaches to that term. I tell you, further, that it is the business men themselves who are chiefly to blame for the political graft and corruption so widespread throughout the nation.

So declared Julius Henry Cohen, the New York lawyer, who has so successfully prosecuted a number of commercial swindlers. This was in an address before credit men.

We hear a great deal about the grafting legislature and the bribe-taking public official in these days, but, gentlemen, I want to ask you who makes possible this graft and who offers these bribes? It is not necessary to make any wild charges. We have in Chicago and in New York two specific instances.

In my own city we had a legislative scandal, in which a member of the legislature is accused of accepting \$1,000 as a bribe for his vote. When we go back to the fundamental facts of that offense we find that the bribe was offered by a bridge company. My friends, bridge companies are not run by legislators; they are managed by business men.

In Chicago we discovered that certain city officials are accused of helping to defraud the city by paying shale-rock prices for the digging of sand. Who was it profited by that transaction? It was a contractor. A contractor, gentlemen, is a business man, and if there is fraud in the shale-rock deal, then that contractor is the chief villain in that crime.

This is plain talk, but how can the business man evade the answer? As a rule he does so by a plea in confession and avoidance: "Yes, we do these things, but we have to do them or go out of business!" As Mr. Cohen says:

In the one year we have prosecuted and convicted in New York twelve men for going into bankruptcy fraudulently. I know about all those cases personally, and I tell you, gentlemen, that the fundamental reason for those twelve crimes was that the swindler believed in his heart that the men he was swindling would swindle him if they had a chance, and that the only difference between him and the people he was swindling was the fact that they had a little more money. And in most cases, gentlemen, the swindler was right.

"As is done in private business" describes what most people want to see government do. In commenting on this, the New York Bureau of Municipal Research pointed out that there was a general assumption, which was very rarely challenged, namely, that there is something about "private" that makes for honesty and efficiency, and something about "public" that encourages dishonesty and inefficiency.

Nothing could be farther from the truth, the bureau pertinently points out, for private janitors force milk companies to pay them a commission of so much per customer in the apartment houses which the private landlord pays the janitor to attend

without commission. Private cashiers need cash registers. Private railroad conductors and inspectors need innumerable checks on tickets sold. Private hospital superintendents have made perfunctory inspections of goods furnished by favorite customers who made them presents. Private bankers are bonded. Private universities have recently been undergoing business reorganization, because of wastefulness and diversion of trust funds. Private department stores pay fabulous salaries plus interest in business profits to experts for cutting out waste, incompetence, and dishonesty. Private railroads save fortunes every year by central purchasing agencies. Private scales and measures defraud customers.

Looking after one's taxes is private business. Yet what a poor standard this private business has heretofore set for public business!

Caveat emptor is the old common-law rule; it still holds sway over the business practices of the day, and until a different rule is followed we may expect just such conditions as recent revelations have exposed.

If we are going to get rid of graft, we must get rid of the graft germ in human nature, we must get rid of the deep-rooted idea that we owe no obligation to the man on the other side of the bargain, that we have no concern for anyone, either the other man or the great third party—the public. The doctrine of “every man for himself and the devil take the hindmost” must be eradicated.

Here, to my way of thinking, is the great, comprehensive remedy to be applied. But how is this to be accomplished? That is the great question. We must adopt those policies that will make the body healthier and therefore more abundantly able to resist or throw off the germ; and all the time make the germ weaker.

A successful diagnosis is an essential prerequisite to a complete cure. We must get at the symptoms and their causes. Mr. Cohen has touched on one. The prevalence of the doctrine of “let the buyer beware” in the world of business is another. We must get it clearly into our minds that graft is not a disease of politics only. It inheres in business, and in the views of many publicists it finds its origin there.

It is a common enough belief that politicians are more corrupt than business men, but such figures as we have at hand do not bear this out. The *Outlook* some years ago quoted the United States Fidelity and Trust Company as authority for the statement that in 1901 the banks of the country lost \$1,665,109 from defalcations, and in 1902, \$1,709,301. The editor of *Midland Municipalities* is responsible for the statement that the loss of federal, county, and municipal governments from the same cause was \$1,283,055 in 1901, and in 1902, \$1,067,789. So that for these two years the employees and officers of banks defaulted in the amount of \$1,024,569 more than did all the public officials in the country.

This is an interesting and in some ways a remarkable showing, as the opinion quite generally prevails that there is more dishonesty in public than in private service, and especially on the part of municipal employees. To be sure, these figures do not take into consideration the exorbitant prices which oftentimes the city, state, or nation is compelled to pay; no more do the others take into consideration the profits accruing from watered stock and other peculiar devices for making money. They concern solely the question of honesty, and show that the average public officer is as honest as the bank officer.

As the editor of *Midland Municipalities* pertinently remarks, however: "The fact is that neither the bankers nor the officials are as a class dishonest, but, on the contrary, look after the interests in their care much better than the average man looks after his business. With the vast sums handled each year by the officials of the banks, the amounts lost in defalcations are exceptionally small—so small that when compared with the whole they are hardly worth notice, much less an excuse for general condemnation."

I hold no special brief for the politician, but I believe the sooner we come to take a just view of the situation, the sooner we shall get relief from grafting, the sooner we shall have self-respecting politicians. Moreover, what this country needs from its business men today is service—and a good example. If there are no bribe-givers, there will be no bribe-takers. The business man of the time must raise his standards of morals. What should we think of

a doctor or a lawyer who, all the time he was serving us, is thinking how much money he is going to get out of us? Well, what about the business man who never thinks of anything else in a business deal except how much money there is in it for him? The business man must put moral values into his figures of profit and loss. Service must bulk as large with him as with the professional man.

"It is a splendid city," said Field Marshal Blücher to the king of Prussia about the city of London, "a splendid city—to loot!" This, alas! is the attitude of all too many business men. The city and the state—they appeal only for the loot they represent. Whatever interferes with this end must be suppressed, even to graft prosecuting, as in San Francisco. During the height of the excitement in that city the Good Government League addressed the following communication to the editors of the metropolitan papers:

During the past three years San Francisco has undertaken to punish its criminals, high and low, rich and poor, without prejudice. In doing so, it has reached into the biggest circles, social and financial. Men high in the business world have been indicted and prosecuted with great vigor.

The argument has been used that these prosecutions are hurting business, and that therefore they should be discontinued. Here at close range we possibly cannot obtain a clear view of the situation. We are therefore desirous of obtaining a consensus of national opinion, with particular reference to the following:

1. Does the prosecution of wealthy persons charged with civic crimes injure business; or does it improve the financial standing of a city in the eyes of outside investors? Why?

2. Would San Francisco profit financially by abandoning the present prosecution; or would it be to the permanent material advantage of the city to prosecute to a final determination the indicted "high-ups," so called? Why?

The answers were mostly to the effect that the cleansing of a city was right morally and a good policy financially. As one put it:

There never was a crusade in behalf of justice and good morals but it was deprecated because of selfish interest. The men of Babylon offered their virgin sisters on the market-place once a year as a means of making Babylon a great commercial center. And Babylon perished from its own corruption. There never was a crusade in behalf of civic purity but some

seller of silks and ribbons, of powder and rouge, of wines and liquors, and some landlord protested that to clean out the bad resorts would hurt business. There never was a scourge of contagious disease but the newspapers were appealed to to suppress reference to the facts because publicity hurt business. What is business that it should be put above the law, above the enforcement of right dealing or good morals? Is it a sacred thing? Are dollars all? If so, the publisher ought to sell his editorial space, the councilman his vote, the minister his conscience, the physician betray his trust because he can enrich himself by so doing.

But of course enforcement of the law against criminal offenders does not hurt a town. When the offenders are rich and powerful they can make a great noise and influence men with whom they have dealings to say that business is being hurt by the prosecution of guilty men. Corporate wealth was never so ingenious as when at bay. If it can save itself by false cries it will do so. It is no different position from the man in the dock who points to his weeping children or his sobbing mother as a reason why he should be given his freedom. His conviction would hurt them.

A prominent manufacturer of San Francisco put the case in this way:

I will not say that, personally, I want to see the graft cases pushed to a determination; but if Francis J. Heney is a candidate I am going to vote for him and do all I can to elect him, simply for the good effect his election will have upon public sentiment regarding the San Francisco situation. I know what outsiders think about us. I know that practically every banker, every manufacturer, every big business man east of the Rocky Mountains is watching us to see whether we dare prosecute cases like this, to see whether we act like men or like poltroons. I am not saying what I think ought to happen in these cases; but when I know what the rest of the world thinks I hope I have sense enough to try to help San Francisco rebuild her reputation.

While holding that Pittsburgh was no worse than other large cities, a well-known lawyer of that city declared some time ago that Pittsburgh had lost a manufacturing plant which would have employed 10,000 men because living-conditions were so bad there. Many similar concerns, he said, were being lost because they could not get in without paying graft. One man, he quoted, had said to him that he was unable to obtain switching-rights there and so went to another city. "This man said to me," declared Mr. Wallace, "'I'll be blamed if I will pay any graft and run a chance of getting into the penitentiary to get into your city.'"

If the business men once get it into their minds that grafting does not pay, the country will have made a great stride forward.

When the Hon. E. R. Taylor was mayor, San Francisco appointed a commission to consider the whole problem of graft, which did not hesitate to report in favor of canceling franchises procured by fraud. The language it used was:

Laws should be enacted for the cancelation of franchises procured by fraud or crime of the owners of the franchises, or of their predecessors in interest. These laws should be of a civil nature, cognizable in a court of equity, so that the extreme technicality of our criminal procedure will not embarrass their enforcement. The mayor and the district attorney, each on his own motion, should have the right to initiate such proceedings in the name of the municipality upon which the fraud has been committed. Their power should be concurrent with that of the state to take similar action in *quo warranto* proceedings.

This recommendation is a corollary to the observation that grafting does not pay, nor should be permitted to pay. If the grafter cannot keep the cake, then he does not want it. If he may be compelled to disgorge, he will hesitate before entering upon a policy of corruption. The suits instituted by the state of Pennsylvania to recover \$5,500,000 were as potent as the criminal prosecutions, but both should be availed of. Bishop Brooks on one occasion said: "The escape from being jailed of every thief of the public money breeds a half-dozen more malefactors. If the public won't punish, it deserves to be plucked."

Fear is still a potent factor, and for that reason, if for no other, the laws against bribery and corruption should be rigidly enforced against high and low both, and, to follow the recommendations of the San Francisco Commission, the laws creating the crime of bribery should be so amended as to provide for the punishment of corporations in their corporate capacity. Very heavy fines should be imposed, and the forfeiture to the state or city of prior acquired franchises should be made a part of the punishment. Let it be thoroughly understood that grafting is dangerous, and it will become unpopular. Perhaps it will never be altogether done away with, any more than murder is, but the stringency of the laws against murder and the vigor of its prosecution act as a powerful deterrent.

As an effective aid in the prosecution of grafters it would be well, as the San Francisco investigators advised, that the law of evidence in criminal cases should be so amended that a corporation accused of crime cannot claim immunity from producing or giving evidence against itself, and the testimony of its officers and all its documents should be admissible in criminal proceedings against it. As a corporation can commit a crime only through an officer or an employee, in a prosecution for such crime the officer or employee should not be permitted to remain mute on the ground that his testimony would tend to incriminate him.

There has always been more or less discussion as to the advisability of offering immunity to the informer. While normally minded men, who have no connection with the enforcement of the criminal laws, may feel repugnance to allowing such a turn state's evidence to go free from punishment in exchange for testimony, nevertheless experience has abundantly demonstrated that such a course is not only justified, but is necessary.

This much, however, has already been accomplished—the awakening of the people. They are now discussing specific remedies, some of which have already been considered. Let us take up some of the others which have been seriously advanced by thoughtful observers. These deal with various phases of the problem, but all have for their object the protection of the body politic from dangerous and undermining influences.

President Pritchett of the Carnegie Institution, in an address before the Massachusetts Reform Club, outlined one comprehensive and fundamental program. The argument of Doctor Pritchett was in substance this: The fundamental need in American political life is the recognition of a political career. Untold harm has been done by the creation of a contempt for politics in the minds of young people. Never shall we get efficient popular government in a democracy until the profession of politics becomes desirable and honorable in comparison with other professions and other callings. This is a *sine qua non* in a democratic republic. The question is how to make the profession of politics desirable and honorable; how to make it possible for young, ambitious, and patriotic Americans to find in politics attractive careers.

Three practical measures, Dr. Pritchett avers, if carried out, would go far toward making possible in Boston politics such opportunities and such careers as will invite efficient and earnest and ambitious men. These are: (1) to provide, first of all, an administrative system capable of dealing with the problems of the city; (2) to pay salaries in the legislative and administrative service of the municipality comparable to the salaries paid for similar ability in private administrative work; and (3) to make the tenure of office long enough to give an efficient and able man opportunity for making a record, and to make the responsibility and the power of executive place sufficient to attract strong men.

The San Francisco Commission, in addition to the recommendations already quoted and commented upon, also submitted the following:

The charter of the city should be so amended as to prohibit partisan nominations for election to municipal offices, and the ballot, when printed, should show nothing more than the name and the office of the candidate.

A separate tribunal of permanent character should be established for the judicial determination of the rates and charges for public utilities.

Laws should be enacted requiring all quasi-public corporations to keep their books in collaboration with the communities they serve, and according to a system prescribed by law.

Laws should be enacted making it a crime for any newspaper to publish as news any matters for which compensation is directly or indirectly paid, or agreed to be paid, unless the fact that such compensation has been paid or agreed to be paid is indicated by some plainly distinguishing mark next the news so printed. The jury or judge should be given liberal power of inferring complicity from considerations indirectly given. A person paying such compensation should be permitted to recover the consideration given by him, and immunity granted him if he disclose the crime. A part of the punishment should consist in forbidding the publication of the paper for a period fixed by the judge. All of which reforms are in a fair way of being carefully tested at various points in the United States.

"If you'll vote for my bill, I'll vote for yours," is a grafting proposition. The legislator who supports a bill desired by special interests because of his expectation that he will not be opposed for a renomination by those interests, or who refuses to vote for a righteous measure for fear that he will not be able to raise a campaign fund from influential people who object to the provisions of the bill, places himself in the category of grafters. Log-rolling in legislative bodies must therefore be eliminated.

Direct legislation, its advocates claim, reaches this condition of affairs as no other remedy. The compulsory initiative and referendum and their corollary, the recall, get at the very source of the trouble. To use the language of a recent writer:

We do not act upon the honest-man theory in our everyday affairs. We know that there are honest men, but we also know that there are others; and because we cannot discriminate at a glance, we lock our doors, instal burglar alarms, hire policemen, and in every way prepare against the possibility of being visited by the wrong kind of a man!

It is upon the broad policy of prevention that direct legislation by the people is based.

We know from numerous examples in other countries and our own that it works. It compels political parties to define the measures for which they stand.

It does away with bribery. Corporations will not pay for legislation which the people may veto at the polls.

It ends the career of mercenary politicians. They cannot survive when corruption funds are wanting.

It opens the way for the people to discuss concrete questions of policy instead of mere personal mud-slinging.

In short, it is the final and effective method of real self-government, the culmination of genuine republicanism.

Publicity is certainly a great factor in making graft difficult of accomplishment. Secrecy is an essential to its successful conduct. If the transactions of corporations and individuals doing business with the public must be open and above board, where is the grafter to get this opportunity? If every item in the ledger must be vouched for and if every public transaction is to be closely watched and keenly criticized, the ways of the grafter will become hard indeed. And this is just what the people are learning to do—to watch, to criticize, and to correct—and they are being helped by an increasing corps of lieutenants.

The stage and the pulpit are doing their share. The latter is preaching "budget sermons" as well as showing the incompatibility of the double life in business and public affairs—the life of the two standards, one for the home and the church, one for the counting-house and the legislative hall and the political committee. There is also a strengthening tendency to present plays dealing with political corruption. This is a symptom of the disease, and, what is better still, a sign of hope, for there can be no doubt that the presentation of plays of this kind has a quickening effect on political life. The heroes of these plays, though of different types, are no more remarkable than are actual characters like Hughes, Folk, and Whitman.

I have left to the last, however, a consideration of the most potent factor of all, the schools. In the San Francisco report to which reference has already been so frequently made, it was pointed out that the trial of Mr. Calhoun had disclosed a considerable number of citizens who, when examined under oath as to their qualifications for jury service, complacently declared that they would not convict a man for bribery, however convincing the evidence, if, since his crime, he had successfully broken a strike which was threatening his investments. A system of public education which produces such men must be radically defective in both its ethical and political teaching. It is our belief that no child should be permitted to leave the grammar school until he has had thoroughly instilled into him a strong sense of his obligation to the state to set aside all prejudice or private interest and act as jurymen in any case in which he may be summoned. He should be taught that this obligation is sacred, that its performance is the highest kind of public service, outranking the mere physical courage and devotion of a soldier.

The schools have not kept pace in their ethical instruction with the many complex changes in our commercial organization. Every child should be taught that in all probability he will, for a large period of his life, be an agent for some corporation. He should be taught the elemental facts concerning the workings of the corporate organization, and particularly the location of the immediate responsibility for any wrongdoing with the directors

who elect the manager, and the ultimate responsibility of the stockholders who, in turn, elect the directors. He should be taught that, if a disclosure of any impropriety in the relations of the corporation to the state does not receive the attention of the directors, he can make a direct appeal to the stockholders through the agency of the press.

"Above all, he should be taught that the corporation is a mere creature of the state, and that it is as much the duty of the citizen to cry 'stop thief' to its attempt to steal a public franchise as it is to raise the cry when it discovers the treasurer, or any other official, robbing the public of its coin."

The struggle against greed and social injustice will not be ended with our generation. Those who come after must continue the battle for the preservation of sane democratic government, and the "vigilance" which is the price of our liberty must be intelligent and organized as well as eternal.

Here, then, we have the nub of the whole problem. The American child must be taught the new ideas of public loyalty to the common good, which have found expression in the following "Rochester Prayer":

For all the love and virtue in the homes of our city, for the green of our parks and the flowers within them, for the trees along our streets and the bird songs above them, for the banks and waterfalls of our lovely Genesee, we lift our hearts. For the loyalty and friendliness of our people, for the helpfulness and guidance of our good, for the spirit of wakefulness and eager aspiration of all, we render hearty thanks, but for our vision of the Rochester that is to be, we are thankful most of all.

May there be a growing righteousness in the administration of all our affairs, a growing honesty in all our commercial relations, a growing desire in the minds of all that justice and equal opportunity shall be the portion of all our citizens. Let our hands be merciful to all who wrong us, our purpose earnest against all wrong. Let the spirit of our comradeship be widened and deepened, that together we may labor for justice, prosperity, and beauty in our midst.

Bless the boys and girls of Rochester, that, disciplined and undisheartened, healthily and merrily, they may lay in store the power that shall one day lift our city to the democracy of our vision. Amen.